

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

| | | |
|------------------------------|---|-------------------|
| CHAD A. COBURN, |) | |
| |) | |
| Plaintiff, |) | |
| vs. |) | NO. CIV-15-642-HE |
| |) | |
| CHAD MILLER, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |

ORDER

Plaintiff Chad A. Coburn, a state prisoner appearing *pro se* and proceeding *in forma pauperis*, filed this § 1983 action alleging violations of his constitutional rights. Consistent with 28 U.S.C. § 636, the matter was referred for initial proceedings to Magistrate Judge Charles B. Goodwin. He has recommended that, pursuant to Fed.R.Civ.P. 4(m), plaintiff's claims against defendant Chad Miller be dismissed without prejudice for lack of service.

The magistrate judge previously entered an order on April 27, 2017, informing plaintiff that the United States Marshals Service had been unable to locate defendant Miller at the address plaintiff had provided and that his deadline to file proofs of service or waivers for all defendants had expired. Plaintiff was given until May 18, 2017, to show good cause in writing as to why his claims against defendant Miller should not be dismissed without prejudice. Plaintiff was warned that if he did not show good cause, the magistrate judge might recommend that his claims against defendant Miller be dismissed.

When plaintiff failed to respond to his order and show cause, the magistrate judge considered the appropriateness of a dismissal under Rule 4(m). He concluded dismissal was warranted and the court concurs with his analysis. Plaintiff also failed to object to the

Report and Recommendation and thereby waived his right to appellate review of the factual and legal issues it addressed. Casanova v. Ulibarri, 595 F.3d 1120, 1123 (10th Cir. 2010); *see* 28 U.S.C. §636(b)(1)(C).

Accordingly, the court **ADOPTS** Magistrate Judge Goodwin's Report and Recommendation. Plaintiff's claims against defendant Miller are dismissed without prejudice. Fed.R.Civ.P. 4(m). The matter remains referred to Magistrate Judge Goodwin.

IT IS SO ORDERED.

Dated this 7th day of September, 2017.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE